

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 785 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE A.N.DIVECHA

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1. Whether Reporters of Local Papers may be allowed
to see the judgements? Yes

2. To be referred to the Reporter or not? No

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3. Whether Their Lordships wish to see the fair copy
of the judgement? No

4. Whether this case involves a substantial question
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder? No

5. Whether it is to be circulated to the Civil Judge?

No

VASHRAM LAVABHAI PATEL
versus
THE STATE OF GUJARAT

Appearance:

Shri Suresh M. Shah, Advocate, for the Petitioner
Shri U.S. Uraizee, Asst. Govt. Pleader, for the
Respondent

CORAM: A.N. DIVECHA, J.

Date of decision: 09/08/96

ORAL JUDGMENT

The order passed by and on behalf of the State
Government (the respondent herein) on 6th November 1990
under sec. 20(2) of the Urban Land (Ceiling and

Regulation) Act, 1976 (the Act for brief) is under challenge in this petition under Art. 226 of the Constitution of India. By its impugned ord Two

respondent withdrew the exemption granted by the order passed on 19th April 1979 qua two parcels of land bearing survey Nos. 177/2 admeasuring 9512 square meters and 177/2(part) admeasuring 8094 square meters situated at Rajkot (the disputed lands for convenience) for breach of certain conditions mentioned therein.

2. It is not necessary to set out in detail the facts giving rise to this petition. The petitioner was granted exemption with respect to in all 3 parcels of land including the disputed lands on certain terms and conditions by the order passed by and on behalf of the State Government on 19th April 1979 under sec. 20(1) of the Act. important conditions were that the exempted lands were to be used only for agricultural purposes and no construction should be raised thereon failing which the exemption would be withdrawn. It appears that it was found that in one of the disputed lands some unauthorised construction was raised and in another land eucalyptus trees were grown. Thereupon a show-cause notice came to be issued to the petitioner under sec. 20(2) of the Act on 13th February 1987 calling upon him to show cause why the exemption should not be withdrawn qua the disputed lands. Its copy is at Annexure A to this petition. In the show-cause notice was mentioned that some inquiry was made with respect to the disputed lands. Thereupon, by his communication of 22nd June 1987, the petitioner requested the author of the show-cause notice to supply to him copies of the documents relied on for the purpose of the show-cause notice. Its copy is at Annexure B to this petition. By one communication of 23rd March 1990, the respondent rejected the application at Annexure B to this petition. Its copy is at Annexure C to this petition. Thereafter it appears that the petitioner again requested for supply of the documents relied on for the purpose of the show-cause notice. By one communication of 3rd September 1990, the petitioner was informed that inspection thereof may be taken by the petitioner prior to the next date of hearing. Its copy is at Annexure D to this petition. It appears that the petitioner again made an application on 11th September 1990 requesting supply of the relevant documents so that he could give instructions to his representative for replying to the show-cause notice and to make necessary representation on his behalf at the time of hearing as he was bed-ridden and could not remain present. He mentioned therein that a medical certificate regarding his

indisposition was enclosed. Its copy is at Annexure E to this petition. It appears that it exasperated the concerned officer of the respondent. By his order passed on 6th November 1990 on behalf of the State Government, the exemption granted qua the disputed lands came to be withdrawn. Its copy is at Annexure F to this petition. The aggrieved petitioner has thereupon approached this Court by means of this petition under Art. 226 of the Constitution of India for questioning its correctness.

3. It passes comprehension as to why on earth the request from the petitioner for supply of the documents relied on by and on behalf of the State Government for the purpose of deciding the matter was not acceded to and why the documents were not supplied to the petitioner. It was not nor is it the case of the respondent that supply of copies of the documents would cause the greatest possible inconvenience and very huge expenses. Besides, the nature of function to be performed under sec. 20(2) of the Act can be said to be quasi-judicial. It is a settled legal position that a person performing such quasi-judicial function is required to observe principles of natural justice. Observance of principles of natural justice presupposes supply of the material relied on by or on behalf of the quasi-judicial authority for the purpose of coming to the conclusion in the matter against the affected party. In that view of the matter, it was incumbent upon the concerned officer of the respondent to have acceded to the request made by the petitioner from time to time for supply of the relevant papers on the basis of which the show-cause notice was issued. Such supply of papers was in consonance with observance of principles of natural justice. Since this has not been done, the impugned order at Annexure F to this petition can be said to be suffering from the vice of contravention of the principles of natural justice. It cannot therefore be sustained in law.

4. In view of my aforesaid discussion, I am of the opinion that the impugned order at Annexure F to this petition deserves to be quashed and set aside. The matter deserves to be remanded to the respondent for restoration of the proceeding to file and for its fresh decision according to law after giving an opportunity of hearing in its true sense to the petitioner, that is, supply of the relevant material on the basis of which the show-cause notice at Annexure A to this petition came to be issued.

5. In the result, this petition is accepted. The

order passed by and on behalf of the State Government (the respondent herein) on 6th November 1990 at Annexure F to this petition is quashed and set aside. The matter is remanded to the State Government for restoration of the proceeding to file and for its fresh decision according to law in the light of this judgment of mine. Rule is accordingly made absolute to the aforesaid extent with no order as to costs.
